

Internal Revenue Service

Department of the Treasury

District
Director

P.O. Box 1680, GPO Brooklyn, N.Y. 11202

Date: JUN 03 1988

Person to Contact:

Contact Telephone Number:

Refer Reply to:

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(6) of the Internal Revenue Code.

The evidence presented disclosed that you were formed on [REDACTED] as an unincorporated association in the State of [REDACTED].

Your organization submitted a copy of their By-Laws as their organizational document. The By-Laws of an organization are not considered an organizing instrument. Since, you do not have an organizational document, you also do not have an official purpose stated. An organization which does not have an organizing document cannot qualify for exempt status.

You requested exemption as a business league under section 501(c)(6) of the Internal Revenue Code.

However, your activities consist solely of collecting common charges from the condominium owners and making disbursements for the maintenance of the common areas. The membership is required and limited only to those persons who are owners of a condominium.

Section 501(c)(6) of the Code provides for the exemption from Federal income tax of business leagues not organized for profit, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations defines a business league as an association of persons having some common business interest, the purpose of which is to promote such common interest. Its activities should be directed towards the improvement of business conditions in one or more lines of business as distinguished from the performance of particular services for individual persons.

Your organization does not meet the definition of an I.R.C. 501(c)(6) organization.

We have also considered your 1024 application for exemption under 501(c)(4) of the Internal Revenue Code.

Section 501(c)(4) of the Internal Revenue Code provides for the exemption from Federal income tax of civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(ii) of the Regulations provides that an organization is not operated primarily for the promotion of social welfare if its primary activity is carrying on a business with the general public in a manner similar to organizations that are operated for profit.

The concept of social welfare implies a service or program directed at benefitting the community rather than a private group of individuals.

Revenue Ruling 74-99, 1974-1 C.B. 131 states that a homeowners association must, in addition to otherwise qualifying for exemption under section 501(c)(4) of the Code, satisfy the following requirements: (1) It must engage in activities that confer benefit on a community comprising a geographical unit which bears a reasonably recognizable relationship to an area ordinarily identified as a governmental subdivision or a unit or district thereof;...and (3) It owns and maintains only common areas or facilities such as roadways and parklands, sidewalks and street lights, access to, or the use and enjoyment of which is extended to members of the general public and is not restricted to members of the homeowners association.

Like the organization described in Revenue Ruling 74-17, 1974-1 C.B. 131, you are an organization that was formed by the unit owners of a condominium.

By virtue of the essential nature and structure of a condominium system of ownership, the rights, duties, privileges, and immunities of the members of an association of unit owners in a condominium property derive from, and are established by, statutory and contractual provisions and are inextricably and compulsorily tied to the owner's acquisition and enjoyment of his property in the condominium. In addition, condominium ownership necessarily involves ownership in common by all condominium unit owners of a great many so-called common areas, the maintenance and care of which necessarily constitutes the provision of private benefits for the unit owners.

Since the organizaion's activities are for the private benefit of its members, it cannot be said to be operated exclusively for the promotion of social welfare. Accordingly, it does not qualify for exemption from Federal income tax under section 501(c)(4) of the Code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(6) or 501(c)(4) of the Code and propose to deny your request for exemption under these sections.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

However, I.R.C. 528, as added by section 2101 of the Tax Reform Act of 1976, P.L. 94-455, provides an elective exemption for certain homeowners associations that are described in section 528(c). This elective exemption may be made by filing Form 1120-H, at the appropriate service center. See enclosed I.R.S. Publication 588.

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time, this determination will become final.

Sincerely yours,

A black rectangular redaction box covering the signature of the District Director.

District Director

Enclosure: Publication 892
Publication 588